

# Table of Contents

## **CHAPTER 106. SUBDIVISIONS**

### **Article I. In General**

<u>Sec. 106-1 – 106-25.</u> Reserved .....	106:1
--	-------

### **Article II. Subdivision Regulations**

<u>Sec. 106-26.</u> Purpose.....	106:1
<u>Sec. 106-27.</u> Exemption or vested rights .....	106:1
<u>Sec. 106-28.</u> Reserved.....	106:3
<u>Sec. 106-29.</u> Reserved.....	106:3
<u>Sec. 106-30.</u> Preliminary plat and construction plan review .....	106:3
<u>Sec. 106-31.</u> Final plat review .....	106:6
<u>Sec. 106-32.</u> Vacation of platted subdivisions.....	106:9

## **Chapter 106 SUBDIVISIONS**

---

**Cross references:** Buildings and building regulations, ch. 18; environment, ch. 38; streets, sidewalks and other public places, ch. 58; concurrency management, ch. 86; flood control, ch. 90; natural resources protection, ch. 98; signs, ch. 102; zoning, ch. 110.

---

### **ARTICLE I. IN GENERAL**

**Secs. 106-1 - - 106-25. Reserved.**

### **ARTICLE II. SUBDIVISION REGULATIONS**

**Sec. 106-26. Purpose.**

- (a) The purpose of this article is to establish procedures for the subdivision of land in the City of Deltona.
- (1) *Prohibitions on transfer of lots and issuance of development or building permits for lots not in compliance with this chapter.* It shall be a violation of this Chapter for anyone who is the owner or agent of the owner of any land to transfer, sell, agree to sell, or negotiate to sell land by reference to, exhibition of, or other use of a plat of a subdivision of land without having the plat approved and recorded, and the Final Plat Development Order has been recorded as required by this Chapter. No development permit or building permit shall be issued on any lot unless that lot is in compliance with this Chapter. In addition, the City shall require all applicable site related features associated with the legally permissible subdivision of land to be included on a plat without exception.

**Sec. 106-27. Exemption or vested rights.**

- (a) *Exempt activities.* The following activities are exempt from the provisions of this article, but not from the standards of other articles and chapters of the Land Development Code, including but not limited to, Chapter 96, Improvements, Chapter 98 Natural Resource Protection, Chapter 94, Impact Fees, Chapter 90, Flood Control, and Chapter 110, Zoning, provided said exempt activities are consistent with the City's adopted Comprehensive Plan, and Chapter 86 of this Code.
- (1) Subdivision of an existing lot as defined in this chapter into two or more lots where all resulting lots are consistent with the Comprehensive Plan and contain 25 acres or more in area and where no new streets or access easements are planned to be dedicated and accepted by the public. Deeds and other conveyances shall include in bold capital letter ten-point type or greater the following statement:
- "NO GOVERNMENTAL AGENCY, INCLUDING THE CITY OF DELTONA, SHALL EVER BE RESPONSIBLE FOR THE MAINTENANCE, UPKEEP OR IMPROVEMENT OF ANY PRIVATE DRIVES, ROADS, STREETS, EASEMENTS OR RIGHTS-OF-WAY PROVIDING INGRESS AND EGRESS TO THE PROPERTY HEREIN CONVEYED."**
- (2) Conveyance of lands to another without division.
- (3) Residential subdivision of not more than two (2) lots, where each lot is less than one (1) acre in size, provided the lots are served by public water and sewer, have direct and proper access to paved public right-of-way and meet all zoning requirements.

- (4) Acquisition of property for public purposes.
- (5) The division of air space into units within a building wherein said building is held in common, undivided, ownership.
- (6) Subdivision of an existing lot as defined in this chapter into not more than four (4) lots is deemed to be a minor subdivision where all resulting lots are consistent with the Comprehensive Plan only if all of the following conditions are met:
  - a. The original parcel was created from a division allowed by City or County regulations in effect at the time of the creation.
  - b. The property to be divided is zoned for agricultural or single-family uses.
  - c. All proposed lots shall meet the minimum lot width and area requirements of the Deltona Zoning Code, as it may be amended from time to time (Chapter 110, Code of Ordinances) but shall not be less than one (1) acre in area.
  - d. All lots created under this exemption provision shall be located entirely out of the 100 year floodplain as determined by the Federal Insurance Rate Maps (FIRM). However, an applicant may seek a DRC determination regarding the appropriateness of allowing a subdivision exemption that involves the floodplain under this provision that is consistent with Section 106-30(c)(4).
- (7) The following types of combinations and restrictions of lots:
  - a. Combinations of all or portions of previously exempted, platted, or unrecorded lots where no new lots contain less area, depth, and width than the original lots, and where the number of new lots created does not exceed the number of lots existing prior to the combination.
  - b. Combinations of previously exempted whole platted lots or previously exempted whole unrecorded lots with non-exempted whole platted lots for the purpose of creating a unified building site to meet zoning requirements provided all resulting combined lots abut for a distance of at least 35 feet at least one publicly maintained street or road that has been opened legally as of October 29, 1976, and which is capable of being traversed by an ordinary two-wheel drive privately-owned passenger vehicle. The separated portions of lots that have been severed by a publicly dedicated street may be considered whole lots for the combining purposes of this exemption.
  - c. Where there is a combination of lots granted by the City, any easements along the lot line that is proposed to be removed shall be verified to ensure that no utilities exist in that area. Where utility lines are present, those easements shall remain.
- (8) Divisions of land for purposes of conveyances, where these divisions were lawful under regulations in effect at the time they were established, and where vested rights have been acquired by the applicant/developer in reliance upon previous regulations where the following criteria have been met:
  - a. A platted subdivision or unrecorded map or survey illustrating the division of the lands, which plat, unrecorded map or survey was in existence prior to October 29, 1976; and
    - 1. Substantial physical on-site development prior to October 29, 1976; or
    - 2. Streets legally opened as of October 29, 1976, which are capable of being traversed by an ordinary two-wheel drive privately-owned passenger vehicle, and at least 25 percent of the lots have been sold by bona fide contracts to different owners in parcels of not more than four lots each.
    - 3. Portions of existing subdivisions meeting the above criteria may be exempted.

- (9) Adjustment of the lot lines of only previously exempted unrecorded lots upon a showing that:
  - a. The adjustment does not reduce any lot to a size less than that permitted by the zoning of the lot; and
  - b. The adjustment does not increase the number of lots.
- (10) Any approved "division having no substantial impact," or any "summary review of division of land" into ten (10) lots or less in accordance with the previous subdivision regulations as amended and administered by the County of Volusia before the incorporation of the City is hereby exempt from provisions of this article, but not from other applicable provisions of the Code of Ordinance, City of Deltona. This includes, but is not limited to Chapter 96, Improvements, Chapter 98, Natural Resources, Chapter 86 Concurrency Management, and Chapter 110, Zoning, provided that any application for the above-described divisions were received by the appropriate governmental agency on or before January 19, 1988.
- (11) Divisions that were created by purchase contracts or conveyances which occurred prior to January 19, 1988, which would have met the "legal exemption and vested rights", "divisions having no substantial impact" or the "summary review process" of the subdivision regulations, as amended and administered by the County of Volusia before the incorporation of the City.

**Sec. 106-28. Reserved.**

**Sec. 106-29. Reserved.**

**Sec. 106-30. Preliminary plat and construction plan review.**

- (a) Two application submittal processes are provided for Preliminary Plats:
  - (1) *Phased Developments.*
    - a. In all cases involving phased developments, the applicant shall file a Preliminary Plat and Construction Plan and, upon receipt of the related Development Order, may then file a Final Plat application for the first phase of the project.
    - b. No Final Plat application shall be filed until the Preliminary Plat (PP) and Construction Plan (CP) Development Order has been issued.
    - c. Preliminary Plat and Construction Plan Development Orders shall be filed, processed and approved consistent with Sections 74-3 and 74-4 of this Land Development Code.
    - d. Phased subdivisions applications shall include tables, illustrations, other ways to convey information that describe relevant geographic (i.e. boundary of phases), and measurable elements (i.e. number of lots) that pertain to each phase of the project and totals for the project as a whole, including those areas intended for public and private use.
  - (2) *Non-Phased Developments:* For subdivisions that do not involve phased developments, the developer may bypass the requirement to file a Preliminary Plat application and proceed to file the Final Plat and Construction Plan Development Order, as provided in Section 106-31(a)(1)b.
- (b) All applicants who are prepared to submit a Preliminary Plat and Construction Plan application are strongly urged to participate in a pre-application meeting with City staff in order to discuss substantive issues related to the pending submittal.
- (c) The Preliminary Plat and Construction Plan application shall be consistent with this Land Development Code and all other applicable regulation.

- (1) *Procedure and required submittals.* The applicant shall provide the Planning and Development Services Department with a minimum of 8 hard copies of the Preliminary Plat and Construction Plan package (10 copies if the plat proposes to access a Volusia County roadway or is located in the Deltona North utility area), an electronic copy of the Preliminary Plat and Construction Plan package including a separate PDF for each plat sheet, and appropriate fee. The application shall include:

a. *The Preliminary Plat and Construction Plan format requires that:*

1. Construction plans shall be submitted on 24" x 36" sheet sizes in a format approved by the City Engineer.
2. Preliminary Plats, submitted as a separate document from the Construction Plan, shall be submitted in the same format as required for Final Plats by Florida Statute Chapter 177 and by the applicable provisions of this Land Development Code.

b. *General information and General Notes.*

1. A current, no older than two (2) years, at scale survey of the subject property prepared by a registered surveyor containing the legal description of the subject property, Property Appraiser's tax identification number(s), and the surveyor's certificate of accuracy. The legal description shall also be presented to the City as part of a Word file;
2. A vicinity map at a scale not to exceed one inch equals 2,000 feet with sufficient information to locate a property in the field;
3. Name of the proposed subdivision; and the name, address, telephone number, and e-mail address of the applicant/owner, subdivision designer, professional engineer, and registered surveyor, and other members of the development team;
4. Date of survey and schematic plan preparation, north arrow, and graphic scale;
5. Total acreage in the tracts, acreage in public or other land usage, total number of lots, and the linear feet of streets;
6. Names and location of adjoining plats/subdivisions and lots, blocks and streets; including the plat book and page number as applicable;
7. Current zoning and existing uses of the subject property and of adjacent and surrounding properties; and
8. Other supplemental information requested by the Planning and Development Services Director or the DRC.

c. *Existing Site Data.*

1. City limit lines (if applicable), property lines, easements, streets, easements, rights-of-way, cross sections, driveways, railroads, utility transmission lines, adjacent street and rights-of-way within 300-ft. of the site, storm sewers, ditches and culverts, sanitary sewer, potable water, and reuse water infrastructure, bridges, buildings, bulkheads;
2. Wooded, wetland and 100 year floodplain areas, marshes, predominant plant communities, watercourses, ponds, and other similar conditions affecting the site;
3. Identify plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species, or species of special concern and known wildlife corridors;
4. Identify topography of the site at not more than one (1) foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor.

5. Identify specific soil types and their limitations for the planned use. Soil information is to be taken from the most recent soil survey or from soil borings, if required;
  6. Identify known historic and archaeological sites.
- d. *Proposed site data and construction details.*
1. Tentative construction schedule of the proposed development, including, if applicable, a tentative schedule for phasing construction;
  2. The date potable water and sanitary sewer facilities are needed to serve the proposed development and a commitment from the appropriate potable water and/or sanitary sewer provider demonstrating adequate capacity shall be available to service the proposed development at the time of impact as provided in Chapter 86;
  3. Engineering plans and locations for all utilities, including, but not limited to, sanitary sewer, storm sewers, water lines and electric lines (if located underground). Show connections to existing systems; stormwater detention or retention facilities or alternative stormwater control system; storm drainage and sewage disposal systems; storm and sanitary profiles; and, when present or proposed, cross sections, inverts, and top elevations of structures;
  4. Information on essential services, including electric or gas services, including a commitment from the provider that adequate electric or gas service, where appropriate, will be available prior to issuance of the Development Order;
  5. Street rights-of-way, pavement widths, grades and elevations, street names, plans, profiles, and, when requested by the city engineer, cross-sections. Street center line dimensions, scalar block and lot layouts, lot and block numbers;
  6. Other rights-of-way or easements, including locations, dimensions and purposes;
  7. Any deed restrictions, protective covenants, homeowner association/property owner association documents for the subdivision and any other information deemed necessary by either the applicant or the DRC;
  8. Contour changes, dikes or any created water bodies or changed watercourses;
  9. Bulkheads and bridges; engineering plans, and cross-sections;
  10. Parks, school sites, common areas, and other public uses, if any;
  11. Areas to be used for purposes other than residential and public; and with the purposes, location and dimensions of each indicated;
  12. Areas reserved for natural resources protection, conservation easements, tree protection areas, open space, etc. Natural and/or preservation areas shall not be used for stormwater management;
  13. Surface drainage patterns with direction of flow;
  14. Stormwater management and Best Management Practices during construction; to include the following:
    - i. The location, type, and description of all proposed erosion and sedimentation controls (i.e., silt fences, synthetic hay bales, etc.).
    - ii. Fuel storage areas.
    - iii. Concrete washout areas.

- iv. Temporary construction entrance and fire apparatus access roadway details.
- v. Areas where construction waste and material storage have the potential to impact stormwater runoff.
- vi. Dewatering areas and the associated discharge points with turbidity limits.
- vii. For proposed developments greater than or equal to one acre or developments less than one acre that are part of a larger common plan of development, a draft or final copy (if applicable) of the site construction generic permit (CGP) notice of intent (NOI), to be submitted to the City.
- vii. Other information, as deemed necessary by the City.

(2) *Developer's option to commence construction.*

- a. *Phased Development:* The developer may elect to commence site development of the subdivision after the Preliminary Plat and Construction Plan Development Order has been issued.

If the developer elects to commence site development prior to or concurrently with Final Plat approval, he/she shall notify in writing the Planning and Development Services Director or his/her designee of that intention. The Planning and Development Services Director or his/her designee shall then issue a development permit authorizing the commencement of site development consistent with the approved Construction Plans, provided the approval process for all other permits adheres to applicable local, regional, state, and federal laws.

- (3) *DRC review.* The DRC shall review and take final action on all Preliminary Plat and Construction Plan applications, to ensure compliance with the provisions of the Land Development Code.
- (4) *100 year flood zone.* If a 100 year flood zone is present on-site, as defined by the Federal Insurance Rate Maps (FIRM), the DRC shall recommend that development and related investment be directed away from this flood zone or other mitigation measures as deemed appropriate.
- (5) *Appeal DRC decision to the City Commission.* If the applicant is aggrieved by the DRC's decision, he/she may request an appeal to the City Commission. Appeals must be filed with the Planning and Development Services Department within twenty (20) working days following the transmission of the DRC's decision to the applicant and must specify the points of disagreement and basis for the disagreement.

**Sec. 106-31. Final Plat Review.**

- (a) No improvements, including streets, shall be accepted and maintained by the City unless and until the Final Plat (FPL) has been approved by the City Commission, and has been duly recorded by the Volusia County Clerk of the Circuit Court. The Clerk shall record only those Final Plats that have been submitted for recording by the Planning and Development Services Director or his/her designee.

(1) *Procedures.*

- a. *Phased Developments:* For phased developments an application for a Final Plat Development Order shall be filed, processed and approved consistent with Section 74-4 of this Land Development Code. The submittals shall be consistent with the issued Preliminary Plat Development Order and shall include any conditions.

1. The developer shall submit an application for a Final Plat only for that portion of the property with an approved Preliminary Plat. and that portion of the site shall conform to all requirements of this Chapter.
  2. The developer shall submit an appropriate number of copies, as determined by the Planning and Development Services Director or his/her designee, of the Final Plat to the Planning and Development Services Department.
  3. The Final Plat shall be prepared by a currently registered land surveyor at a scale of one inch equals 100 feet, or other scale approved by the City Engineer. All Final Plats shall be prepared on standard sheet sizes as required by F.S. Ch. 177, as amended, and shall be 22 inches by 28 inches, including a three-inch binding margin on the left side and a one-inch margin on the other three sides.
- b. *Non-Phased Developments:* For non-phased developments an application for a Final Plat and Construction Plan Development Order shall be filed, processed and approved consistent with Sections 74-3 and 74-4 of this Land Development Code. In addition to the required submittals of Section 106-31(a)(2), the application for a Final Plat and Construction Plan Development Order shall include all items required under Sections 106-30(c)(1)c. (*Existing Site Data*) and 106-30(c)(1)d. (*Proposed site data and construction details*). All applicants who are prepared to submit a Final Plat and Construction Plan application are strongly urged to participate in a pre-application meeting with City staff in order to discuss substantive issues related to the pending submittal.
- (2) *Required submittals.*
- a. The following information shall be shown on the submittals:
    1. Name of the subdivision, date of the survey, north arrow, and graphic scale.
    2. A vicinity map drawn at scale of one inch equals 2,000 feet, or other scale deemed appropriate by the City Engineer.
    3. Names and locations of all adjoining subdivisions, City limit lines, bulkhead lines, property lines, rights-of-way and easements.
    4. Accurate location and legal description of all monuments, markers and control points. The legal description of the property being platted shall appear on sheet 1 of the Final Plat.
    5. Sufficient horizontal and vertical survey data to readily identify and reproduce on the ground every onsite straight or curved boundary line, lot line, right-of-way line, easement line, bulkhead line and setback line, including, but not limited to, linear dimensions, bearings or deflection angles, radii, arcs, central angles, top of slope, slope angle, bottom of slope, points of curve, points of reverse curve, points of tangent, and other commonly used survey features. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second of a degree.
    6. The purpose of all proposed rights-of-way, easements and areas to be dedicated to public use.
    7. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.
    8. Lot and block numbers, street names and all right-of-way or easement widths.
    9. Signed certificates shall appear on sheet 1 of all Final Plats. The following signed certificates shall be completed on the Final Plat prior to submission: dedication, joinder



and consent to dedication, all required acknowledgements, certificate of surveyor, certificate of approval by City registered land surveyor (RLS), certificate of approval by City Commission, and certificate of approval by land development manager and certificate of clerk.

10. The Final Plat shall include additional information as may be required by F.S. ch. 177, as amended.
- b. The following information shall be provided on sheets separate from the Final Plat:
  1. Name, address and telephone number of the owner, subdivision designer, professional engineer, registered surveyor, abutting property owners, and mortgagees of the property.
  2. A title opinion which meets the requirements of F.S. ch. 177, as amended.
  3. Any deed restrictions or protective covenants, with the appropriate filing fees.
  4. Engineering plans to include: cross sections, plan and profile drawings of streets, bulkheads, bridges, sidewalks, water distribution systems, water treatment plants, sewerage collection systems, sewage treatment plants, and storm sewer systems as required by the City.
  5. A tax receipt or statement confirming that all current and previous taxes have been paid in accordance with F.S. § 197.0152, as amended.
- c. If the developer elects to construct the improvements after the issuance of the Final Plat, the following information shall be provided in addition to subsections 106-31(a)(2)a. and b.:
  1. A signed and sealed professional engineer's estimate of the total construction cost or a signed contract which encompasses all proposed improvements.
  2. A performance guarantee in accordance with subsection 96-76(a).
- d. Upon completion of construction of the required improvements, the following information shall be provided in addition to subsections 106-31(a)(2)a. and b.:
  1. A signed and sealed professional engineer's certification of the constructed improvements and the total construction cost. If fire hydrants were installed, the professional engineer must certify that the water distribution system of the development meets the National Fire Protection Association capacity requirements for fire hydrants.
  2. A maintenance agreement in the form of cash or letter of credit in the amount of fifteen (15%) percent of the total construction cost that is acceptable to the City Attorney and the City Engineer.
  3. Three (3) sets of bond copies and a CD with AutoCAD and Portable Document Format (PDF) of the as-built construction plans signed and sealed by the professional engineer which encompass all required improvements. The applicant shall also provide the Planning and Development Services Director or his/her designee an electronic version of the approved 'as built' plans using a software platform acceptable to the City.
  4. Test reports prepared by an independent testing laboratory qualified to perform test(s) specific to the development, as accepted by the City Engineer, in order to ensure that all improvements are in compliance with City standards and specifications.

(3) *Recording requirements.*

- a. *Plat dedications.* All streets, alleys, easements, rights-of-way, parks, school sites and public areas shown on an accepted and recorded plat, unless otherwise stated, shall be deemed to have been dedicated or granted, as appropriate, to the public for use by the public. The recorded plat shall constitute, unless otherwise stated, an acceptance of said offer to dedicate, grant or reserve. Reservations must be clearly indicated as such, and must include the word "reservation."
- b. *Necessary documents.* Prior to recording, an applicant shall furnish the City with those documents necessary to evidence and ensure compliance with requirements, standards, restrictions or conditions of this chapter as requested by the City. These documents shall include, but are not limited to, bonds or other security, agreements, restrictive covenants, deeds and easements, standards, restrictions or conditions and recorded with the Final Plat to be recorded.
- c. *Recordation of plats.* Plats shall be recorded in the following manner:
  1. Following City Commission approval, the developer/applicant shall submit the original mylar plat signed by the developer/applicant, and one paper copy of the approved plat to the Planning and Development Services Director or his/her designee. The applicant shall provide to the City an appropriate electronic version of the plat in a format approved by the Planning and Development Services Director or his/her designee. The developer/applicant shall be required to comply with all applicable provisions of F.S. Ch. 177, City Code, and any related conditions of approval by the City of Deltona. The developer/applicant shall record the Final Plat at Volusia County Clerk of the Circuit Court within twenty (20) working days following City Commission approval of the Final Plat.
  2. The Planning and Development Services Director shall sign the original mylar plat and arrange for the mylar plat to be signed by the Mayor and City Registered Surveyor. The Final Plat, completely signed by all parties, shall be transmitted to the developer/applicant for processing and recordation at Volusia County Clerk of the Circuit Court.
  3. The applicant will provide the City with two (2) hard copies of the recorded plat. Note that the Volusia County Clerk of the Circuit Court will retain the original mylar and will require one (1) mylar copy for their internal records.
  4. Upon receipt of a copy of the recorded Final Plat, the Planning and Development Services Director or his/her designee will issue a Final Plat Development Order to the applicant that is consistent with Section 106-26 of this Chapter and other applicable provisions. In cases where related infrastructure has not been built or received final inspection, such infrastructure shall be bonded in accordance with Section 96-76.
  5. No plat of lands in the City subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until the Final Plat has been approved by the City Commission and all appropriate signatures have been affixed to the plat.

**Sec. 106-32. Vacation of platted subdivisions.**

- (a) The City Commission of the City of Deltona may adopt resolutions vacating plats in whole or in part of recorded subdivisions in the City returning the property covered by these plats either in whole or in part into acreage. Before resolutions to vacate any plat either in whole or in part are entered by the

City Commission, it must be shown that the persons making application for the vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation will not adversely affect the ownership or right of convenient access of persons owning other tracts or parts of the subdivision, or properties that are accessed through such subdivision.

- (b) Persons making application for vacation of plats, either in whole or in part shall give notice of their intention to apply to the City Commission to vacate the plat by publishing legal notice in a newspaper of general circulation in Volusia County in not less than two (2) weekly issues of the paper, and must attach to the petition for vacation and the proof of publication, together with certificates showing that all state and county taxes have been paid.
- (c) Resolution by the City Commission shall have the effect of vacating all streets and alleys which have not become highways necessary for use by the traveling public. A vacation shall not become effective until an original or a certified copy of the related resolution has been filed in the offices of the Volusia County Clerk of the Circuit Court and duly recorded in the public records of Volusia County.
- (d) The owner of any land subdivided into lots may record a plat for the purpose of showing the subject land as acreage. This plat and the procedure shall conform to the requirements of F.S. Chapters 163 and 177, except that:
  - (1) No survey or certificate of any surveyor or engineer shall be required. However, the City Commission may require a survey of the exterior boundaries of the land and the placing of suitable monuments along the boundaries if it finds that the last preceding survey of record is faulty or inadequate or that insufficient monuments are in position along these boundaries.
  - (2) No improvements shall be required except as may be necessary to provide equivalent access, as provided in this section.
  - (3) No findings need be made for the suitability of the land or as to the provision of public facilities and services.